MONTANA LEGISLATIVE HISTORY

Chapter died ~~19~~ 2001

Bill H _____ S 399 Original bill & history ____C

H. Committee on _____		S. Committee on Judiciary	
Hearing Date(s) _____	____C	Hearing Date(s) 2-9	✓ C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out _____	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

few extreme cases. This bill could be structured differently, but they would need to be careful in rewording.

{Tape 1; Side B}

SEN. GRIMES asked if additional language would be necessary to be appropriate. **Jeff Sherlock** said that the way the bill is written now there is a default for the one day hearing and it might be appropriate to have the default read "for good cause shown to have it the same day as well as two days".

SEN. GRIMES asked what good cause would imply. **Jeff Sherlock** said that at times they need to have the person stabilized in order to have a hearing and that is what good cause would mean in this situation.

Closing by Sponsor:

SEN. LORENTS GROSFIELD, SD 13, BIG TIMBER, summarized that this issue is very serious and he asked for the committee to be sensitive with this bill during executive action.

HEARING ON SB 399

Sponsor: SEN. RIC HOLDEN, SD 1, GLENDIVE

Proponents:
Karolyn MacKenzie, Memphis TN.
Julie Millam, Christian Coalition of Montana
Dallas Erickson, Montana Citizens for Decency Through Law
Harris Himes, Attorney, Hamilton
Pastor Hollis Poe, Bitterroot Valley
Becky Walden, Self
Dr. William DeWise, Internal Medicine
Lisa Lovell, Selft
Jeannie Poe, Wife of Pastor Poe
Shannon Bennett, Hamilton
David Carter, Livingston
Tony Ballew, Livingston

Opponents:
Jacqueline Lenmark, Montana Coalition of Privacy
Brian Heeney, Pharmacist, Helena
Doug Aita, Video Software Dealers Association
Dan Bruins, Adult Bookstore Owner, Great Falls
Melvin Batey, Self
Stuart Doggett, Montana Innkeepers

Beth Brenneman, ACLU of Montana
Gilbert Millegan, Manager Showcase Video, Missoula

Opening Statement by Sponsor:

SEN. RIC HOLDEN, SD 1, GLENDIVE, handed in his testimony. **EXHIBIT(jus33a02).**

Proponents' Testimony:

Karolyn MacKenzie, Memphis TN., explained how adult bookstores are exploiting sex with booths for dancers and sexually charged men come into these bookstores to watch the dancers perform. She pointed out the unhealthiness of the sexuality that is going on in these establishments.

Julie Millam, Christian Coalition of Montana, explained the health standards she upheld as a licensed manicurist and how these sexually orientated businesses should have enforcement of health standards. **EXHIBIT(jus33a03)** She handed in information of an activity report.

Dallas Erickson, Montana Citizens for Decency Through Law, handed in his testimony **EXHIBIT(jus33a04).** He handed out information regarding citation and notification of penalties **EXHIBIT(jus33a05).** He handed out a copy of a letter from the U.S. Department of Labor **EXHIBIT(jus33a06).** He handed out a guide to the problems of sexually oriented businesses **EXHIBIT(jus33a07).**

Harris Himes, Attorney, Hamilton, explained the conduct issues and how they conflict with the Montana Right to Privacy. He felt that the issues dealing with the spread of sexually transmitted diseases and the sexual crimes that effect communities from these businesses should be investigated further.

Pastor Hollis Poe, Bitterroot Valley, said that he went into these sexually oriented businesses with **Karolyn MacKenzie** to investigate the filth and he asked the committee to visit these bookstores and businesses and see for themselves the unhealthy standards. He said there is a need for disinfectant materials to be used in these businesses.

Becky Walden read a letter from Karyn Shadow, an ex-dancer of one of these businesses **EXHIBIT(jus33a08).**

Dr. William DeWise, Internal Medicine, mentioned the sexually transmitted diseases that are common and he was appalled at the fact of restaurants being closed due to health standards and how these sexually oriented businesses seem to keep operating. He explained how sexually transmitted diseases can go undetected for a long period of time and these diseases could be transferred to another person through bodily fluids.

{Tape 2; Side A}

Lisa Lovell handed in a witness statement **EXHIBIT(jus33a09)**.

Jeannie Poe, Wife of Pastor Poe, talked about her ex-husband, who became involved with sexual oriented businesses. She feels healed now over being married to someone who was addicted to sexual magazines and visiting these bookstores to watch dancers and strippers. She handed out reports from the Los Angeles Police Department **EXHIBIT(jus33a10)**.

Shannon Bennett, Hamilton, handed in her testimony **EXHIBIT(jus33a11)**. She also handed out information from the National Law Center for Children and Families **EXHIBIT(jus33a12)**.

David Carter, Livingston, handed out a memo from the Livingston City Attorney **EXHIBIT(jus33a13)**. He stated that Montana should have a state law that as a community they could use for a guideline.

Tony Ballew, Livingston, handed out a testimony from Joe and Lee Parriott **EXHIBIT(jus33a14)**. He mentioned his first-hand experiences with these types of businesses, when one was being operated in Livingston, MT. He urged the committee's support of this bill due to the uncleanliness of these businesses.

Opponents' Testimony:

Jacqueline Lenmark, Montana Coalition of Privacy, handed out a memo **EXHIBIT(jus33a15)**. She also handed out three letters **EXHIBIT(jus33a16)**, **EXHIBIT(jus33a17)**, **EXHIBIT(jus33a18)**. She also handed out information regarding video software dealers **EXHIBIT(jus33a19)**. She said that this bill casts a broad net dealing with other businesses, such as video retailers, who may have x-rated rentals in their family-style businesses. She stated that this bill would draw the Department of Health into a complex regulatory scheme that is not developed and this bill would not take care of the uncleanliness of these businesses.

She explained definitions of bookstores and video stores by taking out the language "adult" and pointed out how these definitions would affect other businesses i.e. spas, massage parlors, pharmacies. She said that this bill contains details on where these certain businesses must be located and this amounts to a statewide zoning law. She said there needs to be a fiscal note with this bill since it can be costly to communities that are involved with sexual oriented businesses.

Brian Heeney, Pharmacist, Helena, brought forth health issues of major concern to pharmacies. He pointed out the definitions of an adult bookstore or an adult video store and how these would coincide with pharmacies. Within pharmacies products are available for health reasons and prevention, and by the nature of this bill, the health care profession is included. He didn't want manipulation of the profession to enter this bill if it were to become law.

{Tape 2; Side B}

Doug Aita, Video Software Dealers Association, handed in his testimony **EXHIBIT(jus33a20)**.

Dan Bruins, Adult Bookstore Owner, Great Falls, said he does not agree with this bill due to the licensing and taxes that would be involved. He has the health department involved with his store to help with cleanliness. He also offers free condoms to customers and offers information regarding sexually transmitted diseases. He pointed out that he supports local events to show that his bookstore is part of the community.

Melvin Batey said that he is a member of a nudist club in Montana and he explained how nudity helps the physical health and well-being of a person. He pointed out the activities of his group would be in violation if this bill were to be passed.

Stuart Doggett, Montana Innkeepers, talked about the service of hotels and motels and that they should not be transcribed as a sexually oriented business. He was concerned at how this would be proposed. He pointed out obtaining licenses for businesses and how this would affect innkeepers.

Beth Brennemen, ACLU of Montana, mentioned the regulations for public nudity and she pointed out that this topic was not stated from any of the proponents. She explained the definitions of semi-nude and that only women can be semi-nude under this bill.

One of the problems with this bill includes state ordinances and it is imposed upon by local zoning jurisdictions.

Gilbert Millegan, Manager Showcase Video, Missoula, explained that his store is a family oriented store, which carries a limited amount of adult product. He said that there is a separate room, which is very discreet and is not emphasized, for these x-rated videos to be rented and customers are carded before entering. He worries about the zoning policies that would be inflicted if this bill were to pass and that his store that he has owned and managed for over 15 years would be affected.

Questions from Committee Members and Responses:

SEN. GRIMES asked who the bill was intended for. **SEN. HOLDEN** said there is not an intention to address the medical and church professions.

SEN. GRIMES asked what the definitions of this bill contain and if this bill has unintended applications. **Dallas Erickson** said that this bill is crafted after laws in other states. He added that there are exemptions for family video stores containing rated videos other than x-rated.

{Tape 3; Side A}

SEN. AL BISHOP asked if this bill would affect the local businesses that sell books containing adult content, because the language in this bill could affect materials that Wal-Mart or Target sell. **SEN. HOLDEN** said that the committee would have to discuss this issue during executive action.

CHAIRMAN GROSFIELD asked what type of licensing is currently in place. **Kathleen Martin, Supervisor of Communicable Disease Control Department of Health and Human Services,** said there are not mentions of the licensing departments in this bill other than the licensure for hotels and motels, which is not related to the activities described in this bill, but related to the public impact that might occur in hotels and motels.

CHAIRMAN GROSFIELD asked if the fees involved would be adequate to cover the department's obligations within this bill. **Kathleen Martin** said that she did assist in drafting the fiscal note for this bill and the bill does call for expertise in areas that the department does not have pertaining to building codes, zoning and auditing. **Terry Petersen, Investigator for Department of Health and Human Services,** described investigations that take place for

D.P.H.H.S. and how he has visited these sexually oriented businesses. He explained the lack of use of gloves and disinfectants that should be used in these businesses.

CHAIRMAN GROSFIELD asked what the department's authority is when they find problems in these businesses, are there fines involved. **Terry Petersen** said currently they encourage the owner use cleanliness and if there were a lot of diseases found in a business it would be brought to the county attorney and county health officer.

SEN. GRIMES asked how many establishments could potentially be described as sexually oriented businesses in Montana. **Terry Petersen** answered approximately 200.

SEN. GRIMES asked if sexually transmitted diseases are being transmitted primarily from these businesses. **Terry Petersen** said that they have never had a cluster of diseases come from one of these businesses, but there is the potential that it could happen.

SEN. GRIMES asked if oral or anal sex would produce a higher level of risk. **Terry Petersen** answered yes it would.

SEN. HALLIGAN asked what language in this bill is beyond or similar to what other states may have done. **Dallas Erickson** said that this bill was drafted by an organization that works in the nation on these bills. He was not sure what may be exactly the same or different in this bill with other states.

SEN. HALLIGAN asked if this bill was drafted after an issue that was unconstitutional and happened in Ravalli County. **Harris Himes** said this bill is not drafted precisely like any other bills. He added that these are content neutral emphasizing locations and effects.

SEN. HALLIGAN asked where these cases are concerning the Montana Constitution or whether the local counties have authority to pursue these matters. **Beth Brenneman** said that the issue of local control is very good and ordinances have been found unconstitutional. She pointed out exemptions for protected activity in Section 33 of this bill and that it is not restated.

SEN. HALLIGAN asked if local jurisdictions could deal with this issue on their own. **SEN. HOLDEN** said the type of content that is in these businesses could be difficult to deal with in a local setting.

CHAIRMAN GROSFIELD asked what the impact of this bill would have on nudist clubs and would it limit activities. **Dallas Erickson** said no, it should not apply to these clubs.

SEN. GRIMES asked if the activity in this bill describes oversight or regulation. **Beth Brenneman** said that the activity described in this bill is criminal, pertaining to prostitution. She said that the problems in this bill are indicative of regulations and this bill reflects that women's bodies are deemed to be inherently sexual objects.

SEN. GRIMES asked if underage youth have been allowed into these establishments and is it a violation of current law. **Beth Brenneman** said that she would have to look at a code book for this issue.

CHAIRMAN GROSFIELD asked if within the Section 33 the explanations of rated movies would assist the Video Dealers Association. **Doug Aita** said no, this would not assist the association. He said he had submitted a brief from their legal counsel because this provision in the bill is in violation of Montana Constitution.

CHAIRMAN GROSFIELD asked where the fiscal note may be and if it will be applied to this bill. **SEN. HOLDEN** said that he had not heard if the drafting of the fiscal note had been finished.

CHAIRMAN GROSFIELD asked if it were possible to adjust this bill, would it change your group's position on this bill. **Jacqueline Lenmark** thought that it would not because she didn't think it possible for a bill to be drafted narrowly enough or it wouldn't be necessary. She said if this bill was attempted to be drafted it would not target the approach by the proponents. Law enforcement, education and certain organizations need to be strengthened for businesses to not take the approach of certain regulations.

Closing by Sponsor:

SEN. RIC HOLDEN, SD 1, GLENDIVE, pointed out the needs of this bill and expressed how the proponents were in support due to health issues that occur in these businesses. He felt that these adult bookstores breathe sex crimes and they do not belong within Montana communities.

ADJOURNMENT

Adjournment: 11:45 A.M.

SEN. LORENTS GROSFIELD, Chairman

CECILE TROPILA, Secretary

LG/CT

EXHIBIT(jus33aad)

SENATE AGRICULTURE
EXHIBIT NO. 2
DATE 2-9-01
BILL NO. SB 245

Amendments to Senate Bill No. 245
1st Reading Copy

Requested by Senator Ric Holden

For the Senate Agriculture, Livestock and Irrigation Committee

Prepared by Doug Sternberg
February 9, 2001 (2:31PM)

1. Page 1, line 24.
Following: "means"
Strike: "engaged primarily in"

2. Page 1, line 25.
Following: "15-1-101"
Insert: ", including silviculture, by an individual whose major endeavor and primary source of earned income is farming or ranching and who files farm income reports for tax purposes as required by the United States internal revenue service"

3. Page 1, line 28.
Following: ""Individual""
Insert: "means a human being and"

4. Page 2, line 3.
Following: "business."
Insert: "The number of risk management accounts that may be created is limited to one for each household."

- END -

Testimony Concerning SB399

Dallas D. Erickson
Montana Citizens for Decency through Law, Inc.

Senate Judiciary Committee
February 9, 2001

SENATE JUDICIARY
Exhibit No. 4
Date 02/09/01
Bill No. SB 399

Dear Mr. Chairman and Members of the Committee,

Historically in Montana the media and some legislators treat these bills like two teenage boys would treat a dirty joke whispered between the two of them. I have been working since 1977 to warn Montanan's of the problem of sexually oriented businesses and their harm to the community. Many have responded and passed laws for protection. This bill would not ban so called "adult" businesses but would put some controls on them to alleviate some of the harmful affects of such establishments.

During these years I have been called by members of some communities who were suddenly faced with a sexually oriented business setting up near homes, churches or schools. The fact is there are no laws to prevent that in most of Montana.

In Livingston a bar brought in nude dancers. These nude dancers, according to undercover reports, were sitting on men's faces to pickup money that the men would hold in their mouths. The risk of the spread of disease was horrendous. It is legal under Montana's present laws for dancers to engage in any type of sexual activity with the audience in nude dancing parlors.

As I have revealed what is happening in the "adult" bookstores across the state I have observed men enter the masturbation parlors with men they have solicited in the establishment. Dancers have testified that they were required to clean up the semen left on the glass by men who masturbated to the dancers nude gyrations. Many times these dancers were furnished nothing but a cloth and Windex. Glory holes exist in many of these establishments between the booths so that the people in the booths can have anonymous sex.

This week I spoke with Brandt Good who is head of the STD's in the Missoula County Public Health Department. I asked him if he was familiar with what happens in these places and he said that he was and that he knew they were masturbation parlors. I asked him about the risk of disease in these places since they are sometimes not cleaned for days and he said the risk was minimal. I told him that dancers had told us that young boys are going into those places and having unprotected sex with homosexuals and that many of the booths have "glory holes" between them so they can have anonymous sex. His reply was that was against the law. I asked him what law and he said he wasn't sure but if they were having sexual contact in those places he would be concerned. He called me back, after checking on a law and said even though there was none he could not support our bill.

Dr. Michael R. Spence, Montana's Medical Director, filed an affidavit for the Pennsylvania Attorney General saying the unprotected sexual activity among anonymous partners at the stores endangers public health by promoting the spread of the AIDS virus, hepatitis B and other sexually transmitted diseases. When you look at the fact that dentists wear masks and gloves as do most health care providers then I think common sense goes a long way in convincing us that these places are centers for the spread of STD's.

I know the testimony that you hear today will not be pleasant. For some of you it will be a new revelation of what is happening in our state. The purpose of this bill is not to prohibit the sale of obscene materials or the prohibition of exotic dancing but the regulation of those industries so they will not pollute our communities with disease. Information that we will pass out today and provided by the Department of Health to Livingston officials, tells of an incident where a lady who had sex with someone in another town and was exposed to HPV returned to her Montana home, a town with a population of 400. Later this town had over 100 cases of HPV as result of this one occurrence. HPV, it was revealed can be spread from skin to skin contact.

If there be anyone here that feels this bill would contribute to the sexual "pressure" in the community because the doors will have to be removed from the masturbation parlors I would ask you to wake up. The Presidents commission of 1970 reported that they felt that a free flow of "adult" businesses would eventually have the affect of releasing "sexual pressure" and thereby reduce the number of sexual crimes. Since then, and since the boom of these businesses in Montana and America, the rape rate has skyrocketed well past 500%. It is past time for action to protect communities and people from these diseases and problems. Please give SB399 a DO PASS recommendation.

Thank you
Dallas Erickson

Exh. #4 SB399

U.S. Department of Labor
Occupational Safety and Health Administration
Billings Area Office
2900 4th Avenue North Suite 303
Billings, MT 59101
Phone: (406)247-7494 FAX: 406-247-7499

SENATE JUDICIARY
Exhibit No. 5
Date 02/19/01
Bill No. SB 399

Citation and Notification of Penalty

To:
People's Choice Adult Book Store & Pretty Girls
and its successors
2615 Brooks Street
Missoula, MT 59801

Inspection Site:
2615 Brooks Street
Missoula, MT 59801

Inspection Number: 301363750
Inspection Date(s): 11/17/98 - 11/17/98
Issuance Date: 12/03/98

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or , if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal

exh.4 SB399

conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 3 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Right to Contest - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

Penalty Payment - Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Notification of Corrective Action - For violations which you do not contest, you must notify U.S. Department of Labor Area Office, by letter, within 10 calendar days after each abatement date, that you have taken appropriate corrective action within the time frame set forth on this Citation. Where the citation indicates that *abatement certification* is necessary, only the abatement method and date when abatement occurred are required. Where the citation indicates that *abatement documentation* is necessary, you must also provide evidence, such as photographs, receipts, etc., verifying that abatement has occurred. The abatement letter must be posted or employees otherwise effectively informed about abatement activities. A sample abatement notification letter is enclosed with this Citation.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities - The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Citation and Notification of Penalty

Company Name: People's Choice Adult Book Store & Pretty Girls
Inspection Site: 2615 Brooks Street, Missoula, MT 59801

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness.

Citation 1 Item 1a Type of Violation: Serious

29 CFR 1910.1030(c)(1)(i): The employer having employee(s) occupational exposure did not established a written Exposure Control Plan designed to eliminate or minimize employee exposure:

(a) Bookstore at 2615 Brooks Street, Missoula: Counter clerks were required to clean up Potentially Infectious Material in the customer booths.

__ Abatement certification or documentation is NOT required for this item.
X_ Abatement certification is required for this item.
__ Abatement certification and documentation are required for this item.
__ Warning tag (or citation copy) required on this equipment before moving.

Date By Which Violation Must be Abated:	01/22/99
Proposed Penalty:	$ 750.00

Citation and Notification of Penalty

Company Name: People's Choice Adult Book Store & Pretty Girls
Inspection Site: 2615 Brooks Street, Missoula, MT 59801

Citation 1 Item 1b Type of Violation: **Serious**

29 CFR 1910.1030(d)(4)(ii): Equipment, environmental surfaces, or working surfaces were not cleaned and decontaminated after contact with blood or other potentially infectious materials:

(a) Bookstore at 2615 Brooks Street, Missoula: Counter clerks were required to clean up Potentially Infectious Material in the customer booths using "Windex " and/or "Lysol" spray disinfectant instead of an EPA approved disinfectant which was tuberculocid a.

__ Abatement certification or documentation is NOT required for this item.
_X_ Abatement certification is required for this item.
__ Abatement certification and documentation are required for this item.
__ Warning tag (or citation copy) required on this equipment before moving.

Date By Which Violation Must be Abated: 12/09/98

Citation 1 Item 1c Type of Violation: **Serious**

29 CFR 1910.1030(f)(2)(i): Hepatitis B vaccination was not made available after the employee had received the training required in 29 CFR 1910.1030(g)(2)(vii)(I) or within 10 working days of initial assignment to employees who had occupational exposure to blood or other potentially infectious materials:

(a) Bookstore at 2615 Brooks Street, Missoula: Counter clerks were required to clean up Potentially Infectious Material in the customer booths.

__ Abatement certification or documentation is NOT required for this item.
X_ Abatement certification is required for this item.
__ Abatement certification and documentation are required for this item.
__ Warning tag (or citation copy) required on this equipment before moving.

Date By Which Violation Must be Abated: 01/21/99

Citation and Notification of Penalty

Company Name: People's Choice Adult Book Store & Pretty Girls
Inspection Site: 2615 Brooks Street, Missoula, MT 59801

Citation 1 Item 1d Type of Violation: Serious

29 CFR 1910.1030(g)(2)(i): The employer did not ensure that employees with occupational exposure participated in a training program:

(a) Bookstore at 2615 Brooks Street, Missoula: Counter clerks were required to clean up Potentially Infectious Material in the customer booths.

__ Abatement certification or documentation is NOT required for this item.
X_ Abatement certification is required for this item.
__ Abatement certification and documentation are required for this item.
__ Warning tag (or citation copy) required on this equipment before moving.

Date By Which Violation Must be Abated: 01/21/99

David J. DiTommaso
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
Billings Area Office
2900 4th Avenue North Suite 303
Billings, MT 59101
Phone: (406)247-7494 FAX: 406-247-7499

INVOICE/
DEBT COLLECTION NOTICE

Company Name: People's Choice Adult Book Store & Pretty Girls
Inspection Site: 2615 Brooks Street, Missoula, MT 59801
Issuance Date: 12/03/98

Summary of Penalties for Inspection Number 301363750

Citation 1, Serious	= $	**750.00**
TOTAL PROPOSED PENALTIES	= $	**750.00**

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest. Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is 5%. Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges. A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs. Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.

David J. DiTommaso
Area Director

12/02/98
Date

U.S. Department of Labor
Occupational Safety and Health Administration

SENATE JUDICIARY
Exhibit No. 6
Date 02/19/01
Bill No. SB 399

Billings Area Office
2900 4th Avenue North, Suite 303
Billings, Montana 59101

Commercial: 406/247-7494
Toll Free: 800/488-7087
FAX: 406/247-7499

Certified
Return Receipt Requested

[redacted]
1838 Burlington Avenue
Missoula, MT 59801

Re: Insp No. 301363750

Dear [redacted]

In response to your complaint concerning hazards at:

People's Choice Adult Book Store & Pretty Girls
Missoula, Montana

The Occupational Safety and Health Administration has conducted an inspection there. That inspection was completed on 17 November 1998. The results of our investigation of your complaint are as follows:

Complaint Item No. 1: Employees are required to clean bloodborne pathogens from booths without personal protective equipment such as gloves.

Latex gloves were available at the counter, and were reportedly used by employees.

Complaint Item No. 2: Employees are required to clean bloodborne pathogens without approved disinfectant.

See Citation.

Attached for your information is a copy of the OSHA-2, Citation and Notification of Penalty, which was sent to the employer on 12/3/98, and should have been posted at the workplace for at least 3 days after receipt.

Exh #5 399

If you have questions or need clarification regarding the outcome of this inspection, then you may contact me at the following location:

David J. DiTommaso, Area Director
Occupational Safety and Health Administration
U.S. Department of Labor
Billings Area Office
2900 4th Avenue North #303
Billings, Montana 59101
Telephone 800/488-7087

You also have the right to an informal review by the OSHA Regional Administrator, who may be contacted at the following location:

Regional Administrator
Occupational Safety and Health Administration
U.S. Department of Labor
1999 Broadway, Suite 1690
Denver, Colorado 80202-5716
Telephone (303) 391-5858

This review may be obtained by submitting a written statement of your position to the Regional Administrator. The Regional Administrator will provide the employer with a copy of said statement by certified mail. Your identity will be withheld unless you explicitly request that it be revealed.

Section 11(c) of the Occupational Safety and Health Act of 1970 provides protection for employees against discrimination because of their involvement in protected safety and health related activities. If you believe you are being treated differently, or action is being taken against you because of your safety or health activity, you may file a complaint with OSHA. You should file this complaint as soon as possible, since OSHA normally can accept only those complaints filed within ***30 days of the alleged discriminatory action.***

Thank you for your concern for a safe and healthful workplace.

Respectfully,

David J. Vaughn for
David J. DiTommaso
Area Director

The following exhibit
is more than the ten (10) page limit
in scanning.

Exhibit: 7

2.9.01

SB: 399

The complete exhibit is located with the
minutes are at the
Montana Historical Society Archives
225 North Roberts
Helena, MT 59620-1202
[406] 444-4775

Karyn Shadow's Story
(Stage Name)

SENATE JUDICIARY
Exhibit No. 8
Date 02/09/01
Bill No SB 399

I was born in New York City 13 January 1954. My father started molesting me at age nine and that continued until I was 13. I told Mom and the police about it. My mother beat me physically and abused me mentally when it came to my father going to jail. My mother begged them to not put my father in jail. At 16 I left home and got a job in Baltimore with Jewish Charities. I got involved in prostitution when my uncle, who owned adult bookstores, sent referrals to me to supplement my income. I started smoking pot at this time.

My next step was to join the military from 1974 to 1977. I went into electronics and eventually moved back to Baltimore. In 1982 I went to school in Indiana and married a man who turned out to be child molester. (Molested child marries a molester). He would molest the girls and take pictures of the naked children. I notified the police.

Eighteen months passed that I had no job so I went back to school. I got a job at a strip joint to help with my expenses. I danced in Fort Wayne Indiana after finishing my schooling in computer programing. I lived 60 miles away in Marion which was known for its family values. There I stripped for $12 per hour. It was a clean place to work. I would only get about $5 per hour doing computer programing.

I worked at "Hip Hugger" strip joints and began to mingle with guys. At the Hip Hugger we walked through the crowds for tips. There was a lot of touching. In Fort Wayne I learned about going on the road. I worked days and did not work as a prostitute. This was 1986. Guys would buy the drinks and the drugs and furnish money. I became a schizophrenic to separate the two lives I lived.

At this time a boy friend beat me up really bad and I received a concussion. (1987) The police didn't want to prosecute him because I was a stripper. I like to call what I did exotic dancing. I was paid $1000 in weekly salary. I was ahead of my time and used piercing to assist in my dancing.

I went on the road and lived in my car. I worked on a circuit in Northern Midwest where the white girls would dance and the blacks would be prostitutes. I many times had wanted to get out of this type of business but had no one to turn to. It was after I got a job at Shotgun Willies in Billings in 1991 that I realized where my life was heading and wanted to change my life. I was trapped. I had no friends, no family, no one to help me find the way out.

It has been my experience that 80% to 90% of the strippers that I have known went through the same story as I have told. They were molested at an early age, usually by their fathers, they wanted to get out of the lifestyle but had no one to help them.

I met a guy in Billings at Shotgun Willies, and we skied and enjoyed the same music together. went to the Veterans Center in Bozeman for help with the injury and drug problems. This guy had pointed a shotgun at a cop in North Dakota and he was running from the law. We both went to Reno where I went back into the exotic dancing industry. In Reno I saw how closely the businesses worked with law enforcement. I saw a cop bring an attache case of money into Jay's Lounge that they were laundering for the gambling industry.

I started seeing a psychiatrist who frequented the strip bar where I worked. He counseled me and put me on Prozac. During my work the guy I had been with pulls out a gun and threatened to kill me and himself. He threw me and my dog out of the apartment and shot himself in the back of the head. The psychiatrist sent me to a VA hospital. This all became a pivotal point in my life. I could see that I was on the Highway to Hell at full speed.

I moved back to Montana and went to work at Bozeman as a topless bartender and then Missoula, Billings, Reno then back on the road. I went back to work for Shotgun Willies. I didn't want to because they

exh. #8 SB 399

required me to be involved in prostitution and to use and buy their speed. This place was run by the Kosack Motorcycle Club. These drugs would keep you wanting to go to work and feel good and made you hooked on what they were furnishing. In the beginning of 1991 I met a guy in Bozeman that took me to Missoula. I was involved in counseling at the VA Center. I went to Pretty Girls and worked for a couple of months. It was a filthy place. I became suicidal during this time. Life was terrible. One of the girls set me up with a couple of men as a prostitute. I began to blame other people for my life and began fantasizing about killing people. I went of Prozac and went on Mellaril. My dog was a very important part of my life and at this time my dog died. I wanted to kill everybody. I happened to get another dog and I feel that dog saved my life.

During the time at Pretty Girls I worked two or three days per week. I worked an eight hour shift. The business paid in cash. Robert Wolf of Kalispell is the owner of Pretty Girls (Book City Inc.) and they got into some type of trouble because they were trying to avoid the federal laws which requires banks to report to the federal government if the deposits were over $10,000 so they would deposit some in Missoula and some in Kalispell.

The way it works in Pretty Girls is that the guys would come into the dressing room, pick out one of three girls. The girls would do prostitution in the dressing rooms besides taking drugs.

John Reed from NCIU brought two state troupers in during the Fair. These troupers were flashing their Highway Patrol badges and they did everything but have sex with us under the guise of "inspecting the girls." This happened on the floor visible to the clerk. They were throwing $50 bills at us. One of the girls involved in that situation died from alcoholism in 1994.

A normal day at Pretty Girls would consist of reading, doing drugs, smoking a little weed while we waited for customers. Diane had a list of customers that we would call if things got slow. A customer would come in and pick out one of the three of us then he would go into the booth to watch us dance through a glass window and he or they sometimes would masturbate. Usually they would then make prostitution arrangements.

The girls would be cranked out. In 1994 I started the Cocaine thing and it began poisoning me. I couldn't get it anymore at one point and I about went nuts. The manager of Pretty Girls didn't require us to take drugs but would come to us to get weed when he needed it.

On Saturday young high school age men would come in and would prostitute themselves to homosexual men. They would go into the booths and perform oral or anal sex and of course the young men did not use any type of protection. Sometimes this occurred through "glory holes" between the booths. These boys would talk about needing money for beer. It would be the same group of kids every Saturday. It is still going on. These boys ranged from 13 and up and no one was carded.

I got help from several psychiatrists, most importantly a caring therapist. I became a changed person. One of the girls that still works at the place has been there since 17 and has no way out. She is on drugs and has, like every other girl there, had her children taken from her. She has been beat up many times. She is already dead. She was shooting crank, pregnant and living in her car with a toddler and a baby. She recently broke up with a guy that is looking for her so he can kill her. There is prostitution surrounding the nude dancing establishments in Missoula.

I was relieved to see people protesting Pretty Girls because of what is going on in there. Someone needs to do something or more of the girls that work there and other places are going to die. If I can prevent one girl from going through the hell that I went through in my life because I had no other place to turn then I will do all I can. If more people would speak out and say enough is enough so that these places didn't exist or were severely regulated it would affect for the better, many of the lives of those who think this lifestyle is the only choice they have.

Karyn Shadows

MONTANA STATE SENATE

SENATE JUDICIARY
Exhibit No. 9
Date 02/09/01
Bill No. SB 399

+++++ WITNESS STATEMENT +++++

NAME Lisa LoveLL

ADDRESS 2608 Gold Rush

HOME PHONE: 4490525 WORK PHONE: n/a

REPRESENTING self

APPEARING ON WHICH PROPOSAL ? SB399

DO YOU: SUPPORT ✓ OPPOSE _____ AMEND _____

COMMENTS:

This bill relates to the licensing of sex-related businesses & because of the great harm which these businesses pose to the family and community, I believe this is a reasonable step.

Ted Bundy was clinically "normal" before he began viewing pornography in his adolescence. Location of S.O.B.'s plays a large part in to whose hands these materials land.

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Exh. 9 SB399

LOS ANGELES POLICE DEPARTMENT

SENATE JUDICIARY
Exhibit No. 10
Date 02/09/01
Bill No. SB 399

BERNARD C. PARKS
Chief of Police

P. O. Box 30158
Los Angeles, Calif. 90030
Telephone:
(213) 485-5201
Ref #: 1.5.6

RICHARD J. RIORDAN
Mayor

April 3, 1998

State of California
Senate Judiciary Committee
Sacramento, California

Honorable Committee Members:

On March 25, 1998, the Los Angeles City Council unanimously endorsed Assembly Bill 726. In addition to the official endorsement, this letter is written to inform you of the circumstances surrounding the need for legislation on a local level to abate the secondary harmful effects and quality of life issues connected with some sexually oriented businesses.

In June 1997, the Los Angeles City Department of Planning conducted an in-depth study of the effect of adult-oriented businesses in Los Angeles. This study concluded that there were significant secondary harmful effects when adult-oriented businesses cluster in a given area. These findings have been referred to by cities throughout the country as justification for creating local land use ordinances.

The City of Los Angeles has experienced a significant increase in the number of nude juice bars in the last two years. These businesses have opened in compliance with the City's zoning ordinances and have complied with licensing requirements as they currently exist. Unfortunately, new problems have arisen. Citizens living in surrounding areas have protested the openings of these businesses, citing quality of life issues. Prostitution and lewd conduct arrests have been made in and around many of these locations. As a result of citizen complaints, the Los Angeles Police Department has been forced to direct its limited resources at investigating these businesses. This includes officers working in an undercover capacity as customers and subjecting themselves to degrading behavior by the dancers.

exh #10 SB 399

As an example of the magnitude of the problem, we are including the history of a juice bar that opened one year ago. The location opened in an industrial area across the street from an animal shelter. *Although the shelter does not meet* the standard of a school, religious institution or residential area, it nevertheless is frequented by children and in fact is used to teach children how to care for pets. Citizens in the area protested, and one protester was shot while protesting. The owners of the business plowed up the sidewalk in front of the location, and the protesting citizens could no longer picket in front of it. Unfortunately, pedestrians using the sidewalk have to walk on the street when passing the business. The sidewalk repair work is still dug up after a full year. Los Angeles Police Department vice officers have since made six arrests in the location for selling and furnishing alcoholic beverages to its customers. In addition, six dancers have been arrested since December of 1997 for lewd conduct. While conducting these lewd conduct investigations, forensic investigators documented the presence of semen on the walls where the dancers perform "lap dances." Dancers in the location are dancing completely nude on the laps of the patrons for a $40 fee.

The Los Angeles Police Commission has recommended that the City of Los Angeles adopt municipal legislation that would require sexually oriented businesses to be licensed as adult businesses. It also recommended that all nude or partially nude dancers be required to have permits. It was also noted that some cities have written local legislation prohibiting the dancing on customer's laps and direct tipping. The first two recommendations are currently being considered by the Los Angeles City Council.

Questions by your staff concerning this matter may be referred to Lieutenant David Muro, Officer-in-Charge, Pornography Section, Organized Crime and Vice Division, at (213) 893-8113.

Very truly yours,

BERNARD C. PARKS
Chief of Police

ROBERT P. RUCHHOFT, Captain
Commanding Officer
Organized Crime and Vice Division

Enclosure

MULTI-AGENCY EASTSIDE NARCOTICS
TASK FORCE

DETECTIVES REPORT:
VICE-LEND ACT.

BABE'S DANCE CLUB
4005 128 AVE SE
BELLEVUE, WA

SUSPECTS: "TERRI" W/F/A, 20-25 YOA, 5'7 120# BROWN SHOULDER LENGTH HAIR, BROWN EYES, WEARING A BLACK SATIN TOP MID THIGH LENGTH WITH BLACK PANTIES, BLACK HIGH HEELED SHOES, AND A TATTOO ON THE LEFT SHOULDER BLADE.

"ROSE" W/F/A, 20-25 YOA, 5'5 105# BLOND SHORT HAIR, WEARING: WHITE BIKINI TOP, LIGHT STRIPPED BIKINI BOTTOMS, TATTOO ON HER LEFT BUTTOCK OF "TWEEDY BIRD" AND A PIERCED TONGUE, HIGH HEEL SHOES.

12/08/94 2230HRS:

MYSELF AND DET. DEVORE WENT TO "BABE'S DANCE CLUB" IN FACTORIA TO WORK IN AN UNDERCOVER CAPACITY. UPON ARRIVING WE PARKED OUT FRONT AND A WHITE MALE WEARING WHITE OVERALLS WAS STANDING OUT FRONT AND LET US IN. I PAID FIVE DOLLARS FOR A COVER CHARGE AND WAS TOLD A FIVE DOLLAR DRINK WAS MANDATORY. WE WENT IN AND SAT AT A TABLE IN THE CENTER OF THE CLUB WERE WE COULD SEE BOTH STAGES. A WAITRESS APPROACHED US AND ASKED US WHAT WE WANTED TO DRINK. I ORDERED A COFFEE FOR FIVE DOLLARS. WE WERE WATCHING DANCING ON THE STAGE FOR APPROX. 15 MINUTES BEFORE WE WERE APPROACHED BY TWO FEMALES. I WAS CONTACTED BY "TERRI" AND DET. DEVORE WAS APPROACHED BY "NICKELLE". "TERRI" ASKED ME IF I WANTED TO DANCE AND I ASKED HOW MUCH WERE THE DANCES AND SHE TOLD ME $20.00 AND UP. I ACCEPTED HER OFFER TO DANCE AND WE GOT UP AND WALKED TO THE BACK CORNER WHICH WAS A VERY DARK, DANCE AREA.

A NEW SONG STARTED AND WE STARTED TO DANCE. SHE PLACED HER HANDS AROUND MY WAIST AND NECK. SHE STARTED TO RUB HER CROTCH AGAINST MINE AND TO RUB HER HANDS ON MY CHEST AND BUTTOCKS. I ASKED HER WHAT THE RULES WERE IN RESPECTS TO TOUCHING. SHE TOLD ME IT DEPENDS ON WHAT I AM WILLING TO PAY. SHE GRABBED MY HAND AND PLACED IT ON HER BREAST AND SAID THAT WAS A $40.00 DANCE. SHE THEN TOOK MY HAND AND PLACED IT ON HER CROTCH AREA AND SAID THAT WAS A $60.00 DANCE. SHE THEN ASKED ME IF I WANTED A $60.00 DANCE AND I SAID I WOULD STAY WITH THE $20.00 DANCE FOR THIS SONG. SHE THEN CONTINUED TO RUB HER CROTCH AGAINST MY GROIN AND GRABBED MY BUTTOCKS AND CHEST.

THE SONG ENDED AND SHE ASKED ME IF I WANTED ANOTHER DANCE. I SAID OK BUT HOW ABOUT A $60.00 DANCE. THE SONG STARTED AND SHE STARTED TO GYRATE AGAINST ME. SHE REACHED UP AND PLACED MY HAND UNDER HER TOP, ON HER BREAST. SHE GRABBED MY HAND AND RUBBED IT AGAINST HER BREAST. SHE ALSO PLACED MY HAND IN HER CROTCH AREA AND RUBBED IT. "TERRI" DURING THE DANCE WAS RUBBING HER HANDS ALL AROUND MY WAIST. (LIKE A PAT DOWN) SHE GRABBED MY PAGER AND ASKED ME WHAT IT WAS, I TOLD HER JUST A PAGER WHY? SHE TOLD ME IT WAS HER JOB TO MAKE SHE NOTHING WAS THERE THAT WAS NOT SUPPOSED TO BE. I ASKED HER LIKE WHAT? AND SHE SAID A "BADGE" I SAID "NO WAY THEY SPOIL ALL THE FUN". SHE THEN REACHED DOWN AND GRABBED MY GROIN SEVERAL TIMES BEFORE THE SONG ENDED. I HANDED HER $80.00 FOR THE DANCES AND SHE SAID SHE WOULD LOOK FOR ME LATER.

A SHORT TIME LATER ANOTHER DANCER APPROACHED ME SHE TOLD ME HER NAME WAS "ROSE". WE HAD SEEN HER DANCING ON THE STAGE AND HAD SEEN A TATTOO ON HER BUTTOCKS. I ASKED HER IF IT HURT AND SHE SAID NO. SHE STOOD UP AND PLACED HER BUTTOCKS TOWARDS MY FACE TO SHOW ME HER TATTOO OF "TWEETY BIRD", SHE ALSO SHOWED ME HER TONGUE WHICH WAS PIERCED. ROSE ASKED ME IF I WANTED TO DANCE AND I SAID OK. ROSE TOOK ME TO THE SAME BACK DANCING AREA AS "TERRI" DID. WHEN A NEW SONG STARTED "ROSE" STARTED TO DANCE WITH ME. SHE RUBBED HER CROTCH AGAINST MY GROIN AREA GYRATING AS SHE DID SO. SHE GRABBED MY HAND AND PLACED IT ON HER BUTTOCKS AND PLACED MY OTHER HAND ON HER BREAST. I ASKED HER HOW MUCH TOUCHING WAS ALLOWED DURING A DANCE AND SHE SAID IT DEPENDS ON WHERE THE MANAGER IS. WE FINISHED THE DANCE AND I GAVE HER $20.00.

I SPENT ANOTHER $5.00 ON A DRINK AND WE LEFT THE SCENE AT 2330HRS. THIS CONCLUDED MY UNDERCOVER ACTIVITY AT "BABE'S DANCE CLUB"

DET. D. ROBERTSON P#224
BELLEVUE POLICE DEPT.

CITY OF ANAHEIM, CALIFORNIA

Police Department

March 12, 1998

Ms. Shelia Green
National Family Legal Foundation
11000 North Scottsdale Road, Suite 144
Scottsdale, AZ 85254

The Anaheim Police Department has received your letter in regards to California Assembly Bill 726.

The City of Anaheim presently has 7 sexually oriented businesses within the city limits. They consist of 3 total nude theaters, 2 topless bars and 2 sexually oriented video stores.

From January 1, 1995 through December 31, 1997, the Anaheim Police Department responded to calls for service at the nude theaters and topless bars in excess of 500 times. These calls for service include rapes, assaults with deadly weapons, fights, disturbance of the peace, intoxicated persons, stolen vehicles, trespassing, suspicious persons, suspicious circumstances, suspicious vehicles, and others. These calls for service are a tremendous burden upon the Patrol Division and other city resources.

The Anaheim City Attorney's Office is presently in litigation with two of the nude theaters in regards to dancers being arrested and charged with prostitution.

The Anaheim Police Department is supportive of any legislation that would increase our ability to combat the crime occurring at these locations.

Please contact Sergeant Russ Sutter at (714) 765-1451, if you require further information in regards to this matter.

Sincerely,

RANDALL W. GASTON
CHIEF OF POLICE

n:\home\tengle\ab1f.doc

DRUG USE IS A CRIME

CALIFORNIA STATE SENATE
STATEMENT BY DETECTIVE ROBERT NAVARRO
LOS ANGELES POLICE DEPARTMENT

OVERVIEW OF ADULT BUSINESS:

EXPERIENCE OF THE LAPD WITH THE EXPANSION OF ADULT BUSINESSES

1969-1975 STUDY OF HOLLYWOOD AREA. S.O.B.'S INCREASED FROM 11 TO 88 LOCATIONS IN HOLLYWOOD AREA. "PART I" CRIMES (HOMICIDES, RAPE, AGGRAVATED. ASSAULT, ROBBERY, BURGLARY, LARCENY AND AUTO THEFT) INCREASED 16.2% IN HOLLYWOOD AREA WHILE IN THE REST OF L.A. THEY DECREASED 5.3%. OTHER CRIMES INCREASED 45.4% IN HOLLYWOOD AND ONLY 3.4% IN THE REST OF ALL L.A.

TODAY, VIRTUALLY EVERY ADULT BOOKSTORE REQUIRES POLICE ATTENTION AND RESULTS IN THE USE OF POLICE RESOURCES. ALL PUBLIC PARKS AND STREETS NEAR THE ADULT LOCATIONS PRESENT ADDITIONAL POLICE PROBLEMS.

ONE LOCATION IN THE SAN FERNANDO VALLEY HAS BEEN IN BUSINESS SINCE 1977 AND ALMOST 1,400 ARRESTS FOR LEWD CONDUCT HAVE BEEN MADE IN THE LOCATION. THIS ADDS UP TO OVER 4,000 POLICE HOURS THAT HAVE BEEN EXPENDED IN POLICING THIS ONE LOCATION ALONE. THE PROBLEMS IN THE SURROUNDING AREAS INCLUDE LEWD CONDUCT, PROSTITUTION, LITTERING OF USED CONDOMS, AND VANDALISM. OVER 2,000 ARRESTS FOR LEWD CONDUCT WERE MADE IN AN ADULT MOVIE THEATER ACROSS THE STREET FROM THIS ADULT BOOKSTORE. THE NORTHRIDGE EARTHQUAKE CAUSED ENOUGH DAMAGE TO THE THEATER TO CLOSE THE PLACE DOWN. PREVIOUS ATTEMPTS TO ABATE THESE LOCATIONS HAD FAILED. THE POINT BEING, IT TAKES AN ACT OF GOD TO GET RID OF THESE PLACES ONCE THEY ARE OPEN.

NUDE AND TOPLESS LOCATIONS OFFER A DIFFERENT TYPE OF PROBLEM. PROSTITUTION, LIVE OBSCENE DANCING, LEWD CONDUCT AND SEXUAL ASSAULTS HAVE BEEN PRESENT IN AND AROUND THESE BUSINESSES. EXTENSIVE POLICE RESOURCES ARE EXPENDED IN ORDER TO POLICE THESE SITUATIONS.

Shannon Bennett Testimony
SB399 Senate Committee

SENATE JUDICIARY
Exhibit No. 11
Date 02/09/01
Bill No. SB 399

Dear Mr. Chairman and Members of the Committee,

I am here today to address the harm of sexually oriented businesses. I have heard the life story of former strippers and the hell that they go through. They are very much like the victims of prostitution and many are forced into prostitution and stripping because of abusive men. When they are required to be totally nude they are groped and assaulted regularly. The restrictions on distance from the audience, touching and passing of money are all very Important in making these places safer and cleaner environments.

With this bill as law I believe that the problem would be somewhat under control and that there would be less of the secondary effects as many other states and communities have found. I am going to refer to some of the harmful effects of these establishments. Montana Law Enforcement does not keep statistics so studies in other areas have to be used and that was approved by the courts. An example is a study in

GARDEN GROVE, CALIFORNIA

Dated: September 12, 1991

This report by independent consultants summarized statistics to determine whether adult businesses should be regulated because of their impact on crime, property values and quality of life. Statistics were measured from 1981 to 1990, and included crime data and surveys with real estate professionals and city residents. Garden Grove Boulevard, which has seven adult businesses, was selected as the study area. The study incorporated many control factors to insure accurate results.

Crime increased significantly with the opening of an adult business, or with the expansion of an existing business or the addition of a bar nearby. The rise was greatest in "serious" offenses such as homicide, rape, robbery, assault, burglary, theft and auto theft. On Garden Grove Boulevard, the adult businesses accounted for 36 percent of all crime in the area. In one case, a bar opened less than 500 feet from an adult business, and serious crime within 1,000 feet of that business rose more than 300 percent the next year.

There are many more studies so I am handing in a copy of these studies so that you will have them before you.

Some of the other secondary effects are:

Degradation of Public Decency, Public Order.

Crime Problems

- Prostitution
- Sexual Assault
- Drugs as was evident in the closing recently of the Playground Bar in Great Falls
- Rape

Spread of Disease

This bill would regulate this industry and make our communities safer places for everyone.

Please pass SB399 to address the present problems with sexually oriented businesses and the future problems that are surely to increase.

Thank you.

Shannon Bennett
Hamilton Montana 375-0460

exh. 13 SB399

These summaries are edited from research provided by the staff of the National Law Center for Children and Families. Original copies of each study are available from the National Law Center or National Family Legal Foundation. (See Appendix G for addresses.)

SENATE JUDICIARY
Exhibit No. 12
Date 02/09/01
Bill No. SB 399

PHOENIX, ARIZONA

May 25, 1979

The study examined crime statistics for 1978, comparing areas which have sexually oriented businesses with those that do not.

The results show a marked increase in sex offenses in neighborhoods with sexually oriented businesses, and increases in property and violent crimes as well.

Three study areas (near locations of sexually oriented businesses) and three control areas (with no sexually oriented businesses) were selected. The study and control areas were paired according to the number of residents, median family income, percentage of non-white population, median age of population, percentage of dwelling units built since 1950, and percentage of acreage used for residential and non-residential purposes.

Three categories of criminal activity were included in the study: property crimes (burglary, larceny, auto theft), violent crimes (rape, murder, robbery, assault), and sex crimes (rape, indecent exposure, lewd and lascivious behavior, child molestation).

On average, the number of sex offenses was 506 percent greater in neighborhoods where sexually oriented businesses were located, In one of the neighborhoods the number was 1,000 percent above the corresponding control area. Of the sex offenses, indecent exposure was the most common offense and the largest contributor to the increase of crimes in areas where sexually oriented businesses were located. Even without considering the crime of indecent exposure the number of other sex crimes, such as rape, lewd and lascivious behavior, and child molestation, was 132 percent greater than in control areas without sexually oriented businesses.

On average, the number of property crimes was 43 percent greater in neighborhoods where sexually oriented businesses were located, and the number of violent crimes was 4 percent higher in those areas.

The Phoenix ordinance requires sexually oriented businesses to locate at least 1,000 feet from other sexually oriented businesses and 500 feet from schools or residential zones. Approval by the City Council and area residents can waive the 500 foot requirement.

A petition signed by 51 percent of the residents in the 500 foot radius who do not object must be filed and be verified by the Planning Director.

GARDEN GROVE, CALIFORNIA

September 12, 1991

This report by independent consultants summarized statistics to determine whether adult businesses should be regulated because of their impact on crime, property values and quality of life. Statistics were measured from 1981 to 1990, and included crime data and surveys with real estate professionals and city residents. Garden Grove Boulevard, which has seven adult businesses, was selected as the study area. The study incorporated many control factors to insure accurate results. The report included a brief legal history of adult business regulation and an extensive appendix with sample materials and a proposed statute.

Crime increased significantly with the opening of an adult business, or with the expansion of an existing business or the addition of a bar nearby. The rise was greatest in "serious" offenses (termed "Part I" crimes: homicide, rape, robbery, assault, burglary, theft and auto theft). On Garden Grove Boulevard, the adult businesses accounted for 36 percent of all crime in the area. In one case, a bar opened less than 500 feet from an adult business, and serious crime within 1,000 feet of that business rose more than 300 percent the next year.

Overwhelmingly, respondents said that an adult business within 200-500 feet of a residential and commercial property depreciates that property value. The greatest impact was on single family homes. The chief factor cited for the depreciation was the increased crime associated with adult businesses.

Exh. #12

Phone calls were made in a random sample of households in the Garden Grove Boulevard vicinity. The public consensus was that adult businesses in that area were a serious problem. Nearly 25 percent of the surveyed individuals lived within 1,000 feet of an adult business. More than 21 percent cited specific personal experiences of problems relating to these businesses, including crime, noise, litter and general quality of life. Eighty percent said they would want to move if an adult business opened in their neighborhood, with 60 percent saying they "would move" or "probably would move." Eighty-five percent supported city regulation of the locations of adult businesses, with 78 percent strongly advocating the prohibition of adult businesses within 500 feet of a residential area, school or church. Women commonly expressed fear for themselves and their children because of adult businesses.

The report concluded that adult businesses have a "real impact" on everyday life through harmful secondary effects and made four recommendations: (1) keep current requirement of 1,000 feet separation between adult businesses; (2) prohibit adult establishments within 1,000 feet of residential areas; (3) enact a system of conditional use permits for adult businesses with police department involvement in every aspect of the process; and (4) prohibit bars or taverns within 1,000 feet of an adult business.

LOS ANGELES, CALIFORNIA

June, 1977

The Department of City Planning studied the effects of the concentration of sexually oriented businesses on surrounding properties for the years 1969-75 (a time of proliferation for such businesses). The report focuses on five areas with the greatest concentration of these businesses (compared to five "control" areas free of them), and cites data from property assessments/sales, public meeting testimony, and responses from two questionnaires (one to business/residential owners within a 500 foot radius of the five study areas and a second to realtors/real estate appraisers and lenders). Crime statistics in the study areas were compared to the city as a whole. Also included: a chart of sexually oriented business regulations in 11 major cities, details of current regulations available under state/municipal law, and appendices with samples of questionnaires, letters and other study materials.

While empirical data for 1969-75 did not conclusively show the relation of property valuations to the concentration of sexually oriented businesses, more than 90 percent of realtors, real estate appraisers and lenders responding to the city questionnaires said that a grouping of such businesses within 500-1,000 feet of residential property decreases the market value of the homes. Also residents and business people at two public meetings spoke overwhelmingly against the presence of sexually oriented businesses, citing fear, concern for children, loss of customers and difficulty in hiring employees at non-adult businesses, and the necessity for churches to provide guards for their parking lots.

More crime occurred where sexually oriented businesses were concentrated. Compared to city-wide statistics for 1969-75, areas with several such businesses experienced greater increases in pandering (340 percent), murder (42.3 percent), aggravated assault (45.2 percent), robbery (52.6 percent), and purse snatching (17 percent). Street robberies, where the criminal has face-to-face contact with his victim, increased almost 70 percent more in the study areas. A second category of crime, including other assaults, forgery, fraud, counterfeiting, embezzlement, stolen property, prostitution, narcotics, liquor laws and gambling increased 42 percent more in the study areas over the city as a whole.

The study recommended distances of 1,000 feet between separate sexually oriented businesses, and a minimum of 500 feet separation of such businesses from schools, parks, churches and residential areas.

WHITTIER, CALIFORNIA

January 9, 1978

After experiencing a rapid growth of sexually oriented businesses since 1969, the Whittier City Council commissioned a study of the effects of the businesses on the adjacent residential and commercial areas. At the time of the study, Whittier had 13 "adult" businesses: six model studios, four massage parlors, two bookstores and one theater. Utilizing statistics, testimonies and agency reports, the study compared two residential areas and four business areas over a span of 10 years (1968-1977). One residential area was near the largest concentration of adult businesses, the other had no commercial frontage but was chosen because of similar street patterns, lot sizes and number of homes. For businesses, Area 1 had six adult businesses, Area 2 had one, Area 3 had three and Area 4 had none. Two chief concerns cited in the report are residential and business occupancy turnovers and increased crime.

After 1973, 57 percent of the homes in the adult business area had changes of occupancy, compared to only 19 percent for the non-adult business area. Residents complained of "excessive noise, pornographic material left laying about, and

sexual offenders (such as exhibitionists) venting their frustrations in the adjoining neighborhood." Citizens also expressed concern about drunk drivers coming into the area. Business Area 1, with the most concentration of adult businesses (six), experienced a 134 percent increase in annual turnover rate. Area 3, with three adult businesses at one location, showed a 107 percent turnover rate. Area 2 (with one adult business) had no measurable change and Area 4 (with no commercial or adult businesses) experienced a 45 percent decrease in turnover from similar periods.

The City Council looked at crime statistics for the two residential areas for the time periods of 1970-73 (before adult businesses) and 1974-77 (after adult businesses). In the adult business area, criminal activity increased 102 percent (the entire city had only an 8.3 percent increase). Certain crimes skyrocketed (malicious mischief up 700 percent; all assaults up 387 percent; prostitution up 300 percent). All types of theft (petty, grand and auto) increased more than 120 percent each. Ten types of crime were reported for the first time ever in the 1974-77 period.

The Council's report recommended a dispersal-type ordinance that prohibits adult businesses closer than 500 feet to residential areas, churches and schools, and 1,000 feet from each other. In addition, the study proposed a 1,000 foot separation from parks because of their use by citizens after normal working hours. Adult businesses would be given an 18-36 month amortization period (if the change involved only stock in trade, a 90-day period was recommended).

INDIANAPOLIS, INDIANA

February, 1984

After a 10-year growth in the number of sexually oriented businesses (to a total of 68 on 43 sites) and numerous citizen complaints of decreasing property values and rising crime, the city compared six sexually oriented business "study" areas and six "control" locations with each other and with the city as a whole. The study and control areas had high population, low income and older residents. In order to develop a "best professional opinion," the city collaborated with Indiana University on a national survey of real estate appraisers to determine valuation effects of sexually oriented businesses on adjacent properties.

From 1978-82, crime increases in the study areas were 23 percent higher than the control areas (46 percent higher than the city as a whole). Sex-related crimes in the study areas increased more than 20 percent over the control areas. Residential locations in the study areas had a 56 percent greater crime increase than commercial study areas. Sex-related crimes were four times more common in residential study areas than commercial study areas with sexually oriented businesses.

Homes in the study areas appreciated at only half the rate of homes in the control areas, and one-third the rate of the city. "Pressures within the study areas" caused a slight increase in real estate listings, while the city as a whole had a 50 percent decrease, denoting high occupancy turnover. Appraisers responding to the survey said one sexually oriented business within one block of residences and businesses decreased their value and half of the respondents said the immediate depreciation exceeded 10 percent. Appraisers also noted that value depreciation on residential areas near sexually oriented businesses is greater than on commercial locations. The report concluded: "The best professional judgment available indicates overwhelmingly that adult entertainment businesses -- even a relatively passive use such as an adult bookstore -- have a serious negative effect on their immediate environs."

The report recommended that sexually oriented businesses locate at least 500 feet from residential areas, schools, churches or established historic areas.

MINNEAPOLIS, MINNESOTA

October, 1980

This report is divided into two sections: the relationship of bars and crime, and the impact of "adult businesses" on neighborhood deterioration. In the study, an "adult business" is one where alcohol is served (including restaurants) or a sexually oriented business (i.e. saunas, adult theaters and bookstores, rap parlors, arcades, and bars with sexually oriented entertainment). Census tracts were used as study areas and evaluated for housing values and crime rates. Housing values were determined by the 1970 census compared to 1979 assessments. Crime rates were compared for 1974-75 and 1979-80. The study is strictly empirical and reported in a formal and statistical manner.

The report concluded that concentrations of sexually oriented businesses have significant relationship to higher crime and lower property values. Other than statistical charts no statements of actual crime reports or housing values are included in the report. Thus, the lay reader has only the most generalized statements of how the committee interpreted the empirical

data.

The report recommended: (1) that adult businesses be at least one-tenth of a mile (about 500 feet) from residential areas; (2) that adult businesses should not be adjacent to each other or even a different type of late night business (i.e., 24-hour laundromat, movie theaters); (3) that adult businesses should be in large commercial zones in various parts of the city (to aid police patrol and help separate adult businesses from residential neighborhoods). The report said "policies which foster or supplement attitudes and activities that strengthen the qualities of the neighborhoods are more likely to have desired impacts on crime and housing values than simple removal or restriction of adult businesses."

CLEVELAND, OHIO

August 24, 1977

This police department report is taken from information given by Captain Delau participating in a panel discussion at the National Conference on the Blight of Obscenity held in Cleveland July 28-29, 1977. The topic was "The Impact of Obscenity on the Total Community." Crime statistics are included for 1976 robberies and rapes. Areas evaluated were census tracts (204 in the whole city, 15 study tracts with sexually oriented businesses). At the time of the study, Cleveland had 26 pornography outlets (eight movie houses and 18 bookstores with "peep show" booths). Their location was not regulated by city zoning laws.

For 1976, study tracts had nearly double the number of robberies as the city as a whole (40.5 per study tract compared to 20.5 for other city tracts). In one study tract with five sexually oriented businesses and 730 people, there were 136 robberies. In the city's largest tract (13,587 people, zero pornography outlets) there were only 14 robberies. Of the three tracts with the highest incidence of rape, two had sexually oriented businesses and the third bordered a tract with two such businesses. In these three, there were 41 rapes in 1976 (14 per tract), nearly seven times the city average of 2.4 rapes per census tract.

The report concluded that "close scrutiny of the figures from the Data Processing Unit on any and every phase of the degree of crime as recorded by census tracts indicates a much higher crime rate where the pornography outlets are located."

OKLAHOMA CITY, OKLAHOMA

March 3, 1986

This study contained the results of a survey of 100 Oklahoma City Real Estate Appraisers. Appraisers were given a hypothetical situation and a section to comment on the effects of sexually oriented businesses in Oklahoma City. The hypothetical situation presented a residential neighborhood bordering an arterial street with various commercial properties which served the area. A building vacated by a hardware store was soon to be occupied by an "adult" bookstore. No other sexually oriented businesses were in the area and no other vacant commercial space existed. With less than a one month response time, 34 completed surveys were received by the city.

Thirty-two percent of the respondents said that such a bookstore within one block of the residential area would decrease home values by at least 20 percent. Overwhelmingly, respondents said an "adult" bookstore would negatively affect other businesses within one block (76 percent). The level of depreciation is greater for residents than businesses. The negative effects on property values drop sharply when the sexually oriented business is at least three blocks away. In the subjective portion, 86 percent of the respondents noted a negative impact of sexually oriented businesses on Oklahoma City. Frequent problems cited by the appraisers included the attraction of undesirable clients and businesses, safety threats to residents and other shoppers (especially children), deterrence of home sales and rentals, and immediate area deterioration (trash, debris, vandalism).

Oklahoma City's findings supported results from other national studies and surveys. Sexually oriented businesses have a negative effect on property values, particularly residential properties. The concentration of sexually oriented businesses may mean large losses in property values.

AMARILLO, TEXAS

September 12, 1977

This Planning Department report cited several sources including national news magazines, "adult business" ordinances

from other cities, an American Society of Planning Officials report and pertinent Supreme Court decisions. Lengthy explanation of the Miller test with legal definitions, discussion of Young v. American Mini Theatres, and a comparison of the Boston and Detroit zoning models are included. The city defined "adult businesses" as taverns, lounges, lounges with semi-nude entertainment, and bookstores or theaters with publications featuring nudity and explicit sexual activities. (At the time, Amarillo had three such theaters and four bookstores with space for such publications).

The police department provided an analysis showing that areas of concentrated "adult only" businesses had two and one-half times the street crime as the city average. The Planning Department concluded that concentrations of these businesses have detrimental effects on residential and commercial activities caused by: (1) noise, lighting and traffic during late night hours; (2) increased opportunity for street crimes; and (3) the tendency of citizens to avoid such business areas. The study noted that lack of zoning regulations would lead to concentrations of sexually oriented businesses (causing increased crime) or more such establishments locating near residential areas or family and juvenile oriented activity sites (churches, parks, etc.).

The report recommended: (1) adult businesses locate 1,000 feet from each other, (no distance was specified from residential zones or family/juvenile activities); (2) city development of an amortization schedule and permit/licensing mechanism; (3) city regulation of signs and similar forms of advertising; (4) vigorous enforcement of State Penal Code, especially relating to "Harmful to Minors"; (5) city amendments prohibiting minors from viewing or purchasing sexually oriented materials (enforced physical barriers).

AUSTIN, TEXAS

May 19, 1986

The report was the basis for developing an amendment to existing sexually oriented business ordinances. At the time, 49 such businesses operated in Austin, mostly bookstores, theaters, massage parlors and topless bars. The study examined crime rates, property values and trade area characteristics. The study is also useful because it summarizes many other city studies.

The report focused on sexually related crimes in four study areas (with sexually oriented businesses) and four control areas (close to study areas and similar). Two study areas had one sexually oriented business and the others had two such businesses. To determine the effects of these businesses on property values, the city sent surveys to 120 real estate appraising or landing firms (nearly half responded). For trade area characteristics, three businesses (a bookstore, theater and topless bar) were observed on a weekend night to determine customer addresses.

Sexually related crime ranged from 177 to 482 percent higher in the four study areas than the city average. In the two study areas containing two sexually oriented businesses, the rate was 66 percent higher than in the study areas with one such business. All control areas had crime rates near the city average.

Eighty-eight percent said that a sexually oriented business within one block of a residential area decreases the value of the homes (33 percent said depreciation would be at least 20 percent). Respondents also said such a business is a sign of neighborhood decline, making underwriters hesitant to approve the 90 to 95 percent financing most home buyers require. They said commercial property is also negatively affected by such businesses.

Of 81 license plates traced for owner addresses, only three lived within one mile of the sexually oriented business; 44 percent were from outside Austin.

The report recommended: (1) sexually oriented businesses should be limited to highway or regionally-oriented zone districts; (2) businesses should be dispersed to avoid concentration; and (3) conditional use permits should be required for these businesses.

BEAUMONT, TEXAS

September 14, 1982

This report by the city Planning Department encouraged amendments to existing "adult business" ordinances to include eating or drinking places featuring sexually oriented entertainment (strippers, etc.). Zoning laws required "adult uses" to locate 500 feet from residential areas; 300 feet from any other adult bookstore, adult theater, bar, pool hall or liquor store; and 1,000 feet from a church, school, park or recreational facility where minors congregate.

Police verified that bars, taverns and lounges (especially those with sexually oriented entertainment) are frequent scenes of prostitution and the sale/use of narcotics. On the whole, all criminal activity was higher at sexually oriented businesses.

The report recommended: (1) adding eating/drinking places that exclude minors (under Texas law), unless accompanied by a consenting parent, guardian or spouse, to list of protected uses; (2) require specific permits for areas zoned as General Commercial - Multiple Family Dwelling Districts; and (3) reduce the required distance of sexually oriented businesses from residential areas, schools, parks and recreational facilities from 1,000 to 750 feet.

HOUSTON, TEXAS

November 3, 1983

Report by the Committee on the Proposed Regulation of Sexually Oriented Businesses determined the need and appropriate means of regulating such businesses. Four public hearings provided testimony from residents, business owners, realtors, appraisers, police and psychologists. The committee and legal department then reviewed the transcripts and drafted a proposed ordinance. More hearings obtained public opinion on the proposal and the ordinance was refined for vote by the City Council.

The testimony was summarized into six broad premises:

(1) The rights of individuals were affirmed. (2) Sexually oriented businesses can exist with regulations that minimize their adverse effects. (3) The most important negative effects were on neighborhood protection, community enhancement and property values. (4) Problems increased when these businesses were concentrated. (5) Such businesses contributed to criminal activities. (6) Enforcement of existing statutes was difficult.

The proposed ordinance: (1) required permits for sexually oriented businesses (non-refundable $350 application fee); (2) imposed distance requirements of 750 feet from a church or school, 1,000 feet from other such businesses, and 1,000 feet radius from an area of 75 percent residential concentration; (3) imposed an amortization period of six months that could be extended by the city indefinitely on the basis of evidence; (4) required revocation of permit for employing minors (under 17), blighting exterior appearance or signage, chronic criminal activity (three convictions), and false permit information; and (5) required age restrictions for entry.

SEATTLE, WASHINGTON

March 24, 1989

The report concerned a proposed amendment to add topless dance halls to existing land use regulations for "adult entertainment establishments." Seattle had eight such dance halls (termed "adult cabarets"), six established since 1987. The study relied on reports from a number of cities, including Indianapolis, Los Angeles, Phoenix, Austin and Cleveland.

The increased number of cabarets resulted in citizen complaints, including phone calls, letters (from individuals and merchant associations) and several petitions with hundreds of signatures. Protests cited decreased property values; increased insurance rates; fears of burglary, vandalism, rape, assaults, drugs and prostitution; and overall neighborhood deterioration. The report noted that patrons of these cabarets most often are not residents of nearby neighborhoods. Without community identity, behavior is less inhibited. Increased police calls to a business, sirens and traffic hazards from police and emergency vehicles are not conducive to healthy business and residential environments.

Since city zoning policy is based on the compatibility of businesses, the report recommended the cabarets locate in the same zones as "adult motion picture theaters." This plan allows about 130 acres for such businesses to locate throughout the city.

SENATE JUDICIARY
Exhibit No. 13
Date 02/09/01
Bill No. SB 399

MEMO

DATE: 1/29/99
TO: City Commission, City Manager
FROM: City Attorney
RE: Nude dancing, etc.

Several sources have provided information that the g-string clad females are placing their vaginal area on the mouths of patrons. The g-string does not act as a barrier for the exchange of body fluids. There are potential health hazards resulting from this contact where the g-string clad females retrieve money from the mouths of others. Included are copies of some STD informational guides I have obtained from the Dept. of Health, STD Division. The STD people told me an interesting true story about a small town in Montana, (Pop. 400+) to where a lady returned after having sex in another town during which she was exposed to HPV. Following her return, this town of 400 had over 100 cases of HPV as a result. While HPV is not a life threatening disease, I submit this information only as an eye opener and concern over the touching activities being carried on and the possibility of the spread of STDs. By the way, HPV can be spread from skin to skin contact.

To address the touching concerns, I offer the following options.

Live entertainment to remain on platform while performing:

The owner or proprietor of an establishment selling alcoholic beverages for on-premise consumption may permit live entertainment or performances provided that all such live entertainment or performances shall be performed on a platform, stage or other area set aside exclusively for the entertainer or performer, and no entertainer or performer shall be permitted to leave such platform while entertaining or performing and no person in the audience shall be permitted to enter such platform, stage or other exclusive area during the entertainment or performance.

Security required.

The owner or proprietor of an establishment selling alcoholic beverages for on-premise consumption who allows, employs, promotes or sponsors live entertainment or performances of exotic type dancing shall provide security to prevent the live entertainers and performers from being touched by members of the audience.

Exh. # 13

SENATE JUDICIARY
Exhibit No. 13
Date 02/09/01
Bill No. SB 399

MEMO

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Exh. # 13

SENATE JUDICIARY
Exhibit No. 14
Date 02/09/01
Bill No. SB 399

February 7, 2001

Dear Chairman and members of the committee,

We wish we could be there in person to tell you how vitally important this bill, (SB399), is. We cannot because Lee is recovering from three surgeries done over three months, and is not strong enough yet to make it into the building. We would be there if we could.

We in Livingston know first hand what it is like to try to regulate a nude bar, which is only one of a host of sexually oriented businesses. We failed in our attempt to persuade our city commission to regulate this practice. We only succeeded when we elected a new commission. We tried to regulate it with our *county* commissioners, but they didn't have the gumption to do it. Had we tried to pass an ordinance to regulate *all* SOBs , we would have had an even tougher battle. Our state needs this legislation in order to protect each town and county from some of the filthiest practices we've ever heard of. The information we learned from studying SOBs is enough to make us throw up, and it's against our religion to throw up!

Sexually oriented businesses spread disease, cause crime, and devalue property. We have a government, which requires regulations on meat packing plants, and even hair cuts, but we don't regulate these vile, stinking "businesses". What a travesty that we don't care about regulating this kind of business, but we require someone to get a license to cut hair! This is backward thinking and just plain wrong. We have a notebook full of articles and newspaper clippings regarding sexually oriented businesses. The documented information this contains is incredible. If you don't think these businesses are harmful, take another look at the information you will have before you today. You do the state of Montana a great injustice if you ignore the evidence. This is not a matter of free speech. What goes on in such places is NOT speech, it's conduct. We regulate all kinds of conduct, such as killing someone, robbing someone, breaking into someone's home, and even stalking someone. We need to regulate this kind of conduct too. Thank you.

Joe & Lee Parriott

Joe and Lee Parriott
614 West Lewis
Livingston
406-222-1026

exh. #14

THE MEDIA COALITION INC.

139 FULTON STREET • SUITE 302 • NEW YORK, NEW YORK 10038 • TELEPHONE: 212-587-4025
FACSIMILE: 212-587-2436 • E-MAIL: MEDIACOALITION@MEDIACOALITION.ORG
WEBSITE: WWW.MEDIACOALITION.ORG

SENATE JUDICIARY
Exhibit No. 15
Date 02/09/01
Bill No. SB 399

DAVID MOROWITZ
Executive Director

American Booksellers Foundation for Free Expression

Association of American Publishers, Inc.

Freedom to Read Foundation

Interactive Digital Software Association

International Periodical Distributors Association, Inc.

Magazine Publishers of America, Inc.

Motion Picture Association of America, Inc.

National Association of College Stores, Inc.

National Association of Recording Merchandisers

Periodical and Book Association of America, Inc.

Publishers Marketing Association

Recording Industry Association of America, Inc.

Video Software Dealers Association

Chair
Christopher Finan
American Booksellers Foundation for Free Expression

Immediate Past Chair
Gail Markels
Interactive Digital Software Association

Treasurer
Kim Allman
Recording Industry Association of America

General Counsel
Michael A. Bamberger
Sonnenschein Nath & Rosenthal

MEMO IN OPPOSITION TO SENATE BILL 399

The members of The Media Coalition believe that Montana Senate Bill 399 threatens the distribution of First Amendment-protected material in Montana. Media Coalition members represent most of the publishers, booksellers, librarians, periodical wholesalers and distributors, recording, movie and video game manufacturers, and recording and video retailers in Montana and the rest of the United States.

S.B. 399 would require any business defined as a "sexually oriented business" to obtain an annual license at a cost of $1,000 per year. Also, the business could only hire employees with a "sexually oriented business employee license" and no employee could be under 18 years old. "Sexually oriented business" would be defined as any business that devotes 10 percent of stock, or devotes 10 percent of floor space or derives 10 percent of its income from stock that depicts or describes "specified anatomical areas or specified sexual acts." Violation of S.B. 399 is punishable by six months in jail, or $500 fine or both.

The legislature has the power to regulate the "secondary effects" of sexually oriented businesses but the Supreme Court has established limits on this power. The regulation must be designed to further an important or substantial government interest; The governmental interest must be unrelated to the suppression of speech; and The regulation must be narrowly tailored to further the government interest in preventing the unwanted secondary effects. *City of Erie v. Pap's A.M.*, __ U.S. __ (decided March 29, 2000); *Barnes v. Glenn Theatre, Inc.*, 501 U.S. 560 (1991); *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986).

It is very unlikely that S.B. 399 would meet this test. There is little reason to believe that imposing a license requirement on main stream book, music and video stores will prevent unwanted secondary effects this bill seeks to reduce. However, S.B. 399 would have a serious chilling effect on many mainstream retailers. The extremely broad definition of "sexually oriented business" would impose the onerous licensing requirements on many, if not all, of these stores. Whether it is romance books, hit movies or country records, book, record and video stores all carry mainstream material that are descriptions or depictions of "certain anatomical areas or specific sexual acts." Many would drastically limit their inventory rather than get a license to do business as a "sexually oriented business"adult entertainment establishment" with both the administrative burdens and costs and the associated, negative connotations that go with the label. Alternatively, stores that did become licensed would likely lose customers unwilling to shop at a "sexually oriented business."

The Media Coalition is a trade association that defends the First Amendment rights of publishers, booksellers, librarians, periodical wholesalers and distributors, recording, motion picture and video games producers, and recording and video retailers in the United States.

exh. 15 SB 399

SENATE JUDICIARY
Exhibit No. 16
Date 02/09/01
Bill No. SB 399

Senator Lorents Grosfield
Chair of the Senate Judiciary Committee
Other Distinguished Members of the Judiciary Committee

I am writing to ask for your opposition to Senate Bill No. 399, which is to be considered by your committee tomorrow, February 9th.

I own and operate video stores in the north Flathead Valley. Three of them have what we call "adult videos". This inventory is located in a separate room behind a locked door. The combination to the keyed entry must be obtained from our counter clerk, who is able to check your age before supplying the required code. Because of the responsible way we handle these videos, 95% of our customers, polled in a survey the last time legislation of this nature was introduced, have stated they have no objection to the rental of adult video. I have attached a copy of the survey form for your edification.

While we do not rely solely on adult videos for our revenues, they are an important part of the mix. I know many video stores would be forced to close their doors if burdened by these excessive regulations and fees. Remember that we are merely trying to serve diverse consumer interests and segments of the community. While some segments may object, the legality of these videos is firmly established.

The consumers of this state are looking to you, our representatives, to turn the tide of excessive, burdensome and expensive regulations. Once again, I would ask that you oppose Senate Bill No. 399.

Thanks for your consideration.

Respectfully,

P. LHommedieu

Phelps L'Hommedieu
Owner, Flathead Video

exh 16

SENATE JUDICIARY
Exhibit No. 17
Date 02/09/01
Bill No. SB 399

February 8, 2001

Senator Lorents Grosfield & Committee Members
Senate Judiciary Committee
Helena, MT

RE: SB 399

Dear Sir:

Another bill legislating morality and how are you going to police this one? Once you start down this slippery slope, where do you stop? I own a video store and a movie theater and even tho I do not handle X-rated movies, there are plenty of R rated movies that I would question. How many music videos have you watched lately and even prime time sit coms that are very suggestive.

I am totally against any legislation of this kind and I hope you will forget going down this path.

Sincerely,

Dione Smith

Dione Smith
1329 Yellowstone Ave.
Billings, MT 59102

Exh. 17

8 Feb 01

TO: LORENTS GROSSFIELD, CHAIRMAN SENATE JUDICIARY COMMITTE/
SENATE JUDICIARY COMMITTEE MEMBERS

SENATE JUDICIARY
Exhibit No. 18
Date 02/09/01
Bill No. SB 399

FROM: JON & SON PRESLEY
1 & 3 DAY VIDEO
4301 10TH AVE S.
G.F., MT 59405

SUBJECT: SENATE BILL 399

I respectfully request that you oppose senate bill 399. This bill would do great harm to the small vidoe business
owner. I have been in the video business for six years and I'm a member of the VSDA. I do rent adult videos in my store, but I keep them seperated in a different room, I monitor who enters ensuring all persons are 18 yrs. of age, and when required, I ask for proper identification.

I truly feel that senate bill 399 would do great harm not only to my business but others in Great Falls and across the state of Montana. I am a firm believer in a persons right to choose. If one chooses to view adult videos and they are 18 yrs. old it is their choice. How in good faith can we legislate what people watch in the privacy of their own home. Is there a difference in making love and watching people make love? My answer to you is no. I have hundreds of customers that feel the same as my wife and I. This is truly harmless entertainment and should not be legislated.

Please let the business owner continue to monitor this product ensuring it stays in the hands of the adults, NOT the minors. There truly is responsible entertainment for all ages. G rated movies are for kids, PG for teens, and so on. Once again please oppose senate bill 399.

Respectfully,
Jon E. Presley & Son Hui Presley
1 & 3 Day Video
G.F., Mt. 59405/406-454-0390

exh. #18

Video Software
Dealers Association

SENATE JUDICIARY
Exhibit No. 19
Date 2/9/01
Bill No. SB399

Statement of
Video Software Dealers Association
On Senate Bill 399

Judiciary Committee
Montana Senate

February 9, 2001

The Video Software Dealers Association (VSDA), on behalf of itself and video stores in the State of Montana, submits this statement in opposition to Senate Bill 399, which would require licensing of and place restrictions on "sexually oriented businesses."

Established in 1981, the Video Software Dealers Association is a not-for-profit international trade association for the $19 billion home entertainment industry. VSDA represents over 2,000 companies throughout the United States, Canada, and 20 other countries. Membership comprises the full spectrum of video retailers (both independents and large chains), as well as the home video divisions of all major and independent motion picture studios, video game and multimedia producers, and other related businesses which constitute and support the home video entertainment industry.

VSDA and its members do not object to the goal of SB 399 to insulate children from the negative secondary effects of sexually oriented businesses. However, as drafted, the bill is constitutionally defective because it would sweep popular motion pictures and mainstream video stores into its regulatory scheme.

SB 399 would negatively impact many family oriented businesses that provide affordable, quality entertainment to the citizens of Montana by stigmatizing them as "sexually oriented businesses." Section 2 of the bill would label as a "sexually oriented business" any video store that has 10 percent of its stock, or devotes 10 percent of its total floor space, or derives 10 percent of its income from videos that depict "specified anatomical areas" or "specified sexual activities."

As a "sexually oriented business," mainstream video stores that meet the 10 percent threshold would be subject to extremely burdensome restrictions on where they could be located, their hours of operation, and their signs, and no-one under the age of 18 would be permitted in the stores. Under proposed Section 25 of SB 399, the video stores would not even be able to display any "G"-rated movies in their windows, since no store merchandise would be permitted to be visible from outside the store. The stores would be subject to a $1,000 annual license, and the owner and employees would have to be licensed as engaged in a sexually oriented business.

16530 Ventura Boulevard, Suite 400
Encino, California 91436
Voice [818] 385-1500
Fax [818] 385-0567
http://www.vsda.org

Exh. 19

SB 399 Would Impermissibly Promote Self-Censorship

It is important to note that, in determining whether the 10 percent threshold for regulation is met, Section 2 of SB 399 would not require the videos to be characterized by an emphasis on sexual matters. Rather, any depictions of "specified anatomical areas" or "specified sexual activities" would cause a video to be counted towards the 10 percent limitation. Thus, even R-rated movies that contain nudity or sex scenes, movies such as "Titanic", would have to be considered when determining whether the 10 percent limitation has been met.[1]

Motion pictures are a form of expression protected by the First Amendment. *Erznoznik v. City of Jacksonville*, 422 U.S. 205 (1975); *Jenkins v. Georgia*, 418 U.S. 153 (1974); *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952). While SB 399 would not directly ban R-rated movies that depict "specified anatomical areas" or "specified sexual activities," it would promote self-censorship. The stigma of being classified as a "sexually oriented business," the restrictions on operations, and the criminal liability associated with this bill could cause video stores to either close their doors or to severely curtail the availability of popular motion pictures. To avoid being labeled as a "sexually oriented business" and being subjected to the onerous restrictions and the potential for criminal prosecution, video stores may be forced to carry only the mildest films that do not contain the depictions enumerated in SB 399. The Supreme Court has ruled many times that laws that promote self-censorship because of the fear of legal consequences violate the First Amendment as much as laws that directly ban certain speech. *See, e.g., Smith v. California*, 361 U.S. 147, 154 (1959).

Even if the bill covered only videos that are characterized by an emphasis on "specified anatomical areas" or "specified sexual activities," it would encompass mainstream video stores that offer for rent or sale some non-obscene, sexually oriented motion pictures for home viewing. These videos are constitutionally protected under the First Amendment. Although the majority of their store space is dedicated to movies rated "G", "PG", "PG-13", and "R", many video stores offer adult product as part of their effort to serve diverse consumer interests and segments of the communities in which they operate. The adult product is handled responsibly and discretely, generally in a separate room marked for "adults only" that is monitored and to which access is restricted. Mainstream video stores that carry adult product do not allow minors to enter the room or see the adult product, do not allow on-premises viewing, and do not sell or rent adult product to minors.

Adult videos are an important component of the economics of independent video retailers. Without the revenue from adult titles, many independent video stores would likely go out of business. Thus, SB 399 would force many video stores in Montana to either become a "sexually oriented business" or, more likely, close their doors, leaving many communities around Montana without access to the affordable, quality entertainment that video stores provide.

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[1] The language of proposed Section 33 does not exclude such films from being counted towards the limit; it only states that they would be "exempted from regulation." The intended purpose of Section 33 is unclear, as SB 399 does not attempt to regulate motion pictures, but rather the establishments that offer certain motion pictures and other materials. In addition, Section 33 has constitutional problems of its own. *See infra*.

SB 399 Exceeds the Acceptable Boundaries for Secondary Effects Legislation

SB 399 is "secondary effects" legislation, since it seeks to regulate the "time, place, and manner" of adult businesses based on the impacts on the communities in which they are located rather than the content of the products they sell.

According to the U.S. Supreme Court, in order to pass constitutional scrutiny, secondary effects legislation must meet the following criteria:

- The regulation must be within the constitutional power of the government;
- The regulation must be designed to further an important or substantial government interest;
- The governmental interest must be unrelated to the suppression of free expression; and
- The regulation must be narrowly tailored to further the government interest in preventing the unwanted secondary effects.

City of Erie v. Pap's A.M., __ U.S. __ (decided March 29, 2000); *Barnes v. Glenn Theatre, Inc.*, 501 U.S. 560 (1991); *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976).

The Supreme Court cases addressing secondary effects and adult businesses all involved adult theaters or nude dancing. The Supreme Court has never directly addressed secondary effects regulation when applied to video stores that primarily sell or rent material that is not sexually oriented and that do not allow on-premises viewing of adult movies. However, some state and lower federal courts have addressed the issue. These courts have consistently struck down attempts to regulate mainstream video stores as adult businesses. *See City of Columbia v. Pic-A-Flick Video*, ___ S.E. 2d ___ (S.C. 2000); *Faraone v. City of East Providence*, 935 F. Supp. 82 (D.R.I. 1996); *Richardson v. Wile*, 535 A.2d 1346 (Del. 1988); *see also World Wide Video, Inc. v. City of Tukwila*, 117 Wash. 2d 382, 389; 816 P.2d 18, 21 (Wash. 1991), *cert. denied*, 503 U.S. 986 (1992); *Price v. State*, 806 S.W.2d 176 (Tenn. 1991).

In light of the relevant Supreme Court precedents and other court cases dealing with secondary effects regulations and mainstream video stores, to the extent that SB 399 would subject mainstream video stores to its restrictions, the bill would not pass constitutional scrutiny. There is no substantial government interest in regulating video stores that primarily sell or rent material that is not sexually oriented and that do not allow on-premises viewing of adult movies, and there is no evidence that such video stores generate negative secondary effects. *See City of Erie v. Pap's A.M.*, __ U.S. __ (decided March 29, 2000).

SB 399 Would Unconstitutionally Delegate Legislative Power

Proposed Section 33 of SB 399, by apparent reference to the rating system of the Motion Picture Association of America (MPAA), proposes to grant to the MPAA the unfettered authority to determine whether a movie is exempted from the regulatory scheme of the bill. As a result, the bill would violate Section 1, Article III of the 1972 Montana Constitution by delegating legislative powers to a private association. *State v. Holland*, 37 Mont. 393, 402-06, 96 P. 719, 721-22 (Mont. 1908); *see also State ex rel. Normile v. Cooney*, 100 Mont. 391, 402-04, 47 P.2d 637, 643-44 (Mont. 1935). As the Supreme Court of South Dakota has stated in interpreting a

similar provision of its constitution, the delegation by the legislature of its discretionary power to private persons "creates a new and private government and violates an essential concept of our democratic society and is constitutionally invalid." *House of Seagram, Inc. v. Assam Drug Co.*, 85 S.D. 27, 33, 176 N.W.2d 491, 495 (S.D. 1970).

In light of the clear judicial precedents that the provisions of SB 399 are constitutionally impermissible, we must respectfully oppose the bill.

Thank you for the opportunity to provide this information to the committee.

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Bozeman, MT 59718

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SENATE JUDICIARY
Exhibit No. 20
Date 02/09/01
Bill No. SB 399

Statement in Opposition to Senate Bill 399

My name is Doug Aita, I own a video store in Bozeman, and I am the current President of the Montana Chapter of the Video Software Dealers Association. The VSDA is the only National Trade Association representing the entire Home Video industry, including the Home Video divisions of all the major Hollywood movie studios as well as retailers of all sizes, from Blockbuster Video to the smallest independent stores.

My wife and I have owned and operated our store in Bozeman for 17 years and it represents substantially all of our income. Our store is typical of many locally owned video stores throughout Montana and the rest of the nation. We cater to the broadest possible cross section of customers, carrying nearly 20,000 movies of all types.

Our strongest category is obviously the big Hollywood films that are released to video stores several months after their theatrical run. But in order to compete with the large chain stores we also serve as many of the niche markets as possible. Examples of these would include foreign films, old classics, and adult films. Our customers appreciate the selection we offer and reward us with their loyalty.

The adult category in particular is very important to many independents because it is a popular and profitable niche to serve. In fact recent member surveys done by VSDA have shown that most independent video retailers rely on adult product for a significant portion of their overall operating profits. In other words without an adult room many would simply go out of business.

Adult movies in my store are displayed in a separate room from the other mainstream products. This room is off-limits to anyone under 18 years old, and we strictly enforce this policy. The room is monitored at all times by closed circuit camera, and our staff is trained to be vigilant about this. We have never had a problem of any kind regarding underage access to adult product in our store.

VSDA member retailers participate in a national program called "Pledge To Parents" that provides a level of protection for parents in that retailers will not rent material rated inappropriate for the child's age, based on the MPAA rating system. Most video retailers enforce this policy vigorously, and the rental of adult product to underage children has never been a serious problem anywhere in Montana.

Exh. #20 SB 399

I have several concerns about SB399 that would have a very serious negative impact on my business as well as most video rental stores in Montana that cater to customers who enjoy adult entertainment.

1. The 10% threshold that is stipulated in the bill is extremely low. As stated above many retailers rely on this market segment for a significant part of their income. Labeling a store that does 90% of its business in mainstream product, as a "Sexually Oriented Business" is extremely unfair. What's more it places extremely unreasonable regulatory burdens on that business. Determining where it can locate, what days and hours it may operate, what type of marketing and merchandising it can do, and imposing excessive fees among other things.

2. Requiring employees to be licensed by the state will make it even tougher to find workers in a job market that is already very tight. This will make it even more difficult for locally owned businesses to compete with large national chains, most of which do not carry adult products.

3. A licensing fee of $1,000.00 per year seems punitive in nature. I already pay a business license fee to operate in Bozeman, and it is much lower than that (only $125.00 per year) If the fee is designed to pay for the administration of this program, then I would ask why create this additional bureaucracy.

4. This bill seems to be designed much like a zoning ordinance, controlling things, which are best, controlled at the local level. Location, hours of operation, signage, etc. Does the State of Montana really need to take on these responsibilities, or should I say take them away from the local governments which are certainly capable of dealing with them as they have successfully done in the past?

5. The bottom line is this. SB399 looks like an outright attempt to remove adult product from local video stores. If this bill becomes law most independent video retailers in Montana will be faced with a Hobson's choice. Become a "Sexually Oriented Business" or go out of business. Neither choice looks good to me so I urge this committee to vote against SB399.

Respectfully submitted for the Montana Chapter, VSDA,

Doug Aita
President

The
Video Software Dealers Association

Pledge To Parents

Program

Pledge to Parents is a national program developed by the Video Software Dealers Association -- the primary trade association serving the home video industry. ***Pledge to Parents*** was developed as a tool to give parents greater control over the films and video games their children rent.

The nation's video store owners are committed to serving their communities by helping parents make wise, well-informed entertainment choices for their children.

Recent tragic acts of violence involving young people have raised questions about the impact violent images in today's movies and video games may be having on our nation's youth. Some concerned citizens argue that the government should enact legislation that would impose strict limitations on the kinds of movies and video games young people can watch and play.

The video retailers that comprise our membership believe that such decisions are best left to parents, and that the ***Pledge to Parents*** program is an effective tool that allows parents to control the content of the movies and games to which their children have access.

Established by VSDA in 1991, ***Pledge to Parents*** uses the movie and videogame content ratings systems established by the MPAA and ESRB to prevent minors from renting or buying videos deemed inappropriate by their parents. The ratings system has proven to be both popular and effective in this regard. A recent poll found that 76% of parents with children under 13 years of age find the age-based movie ratings system helpful and informative.

Our Pledge to Parents

1.It is the policy of VSDA-member video stores participating in the *PLEDGE TO PARENTS* program not to rent or sell videotapes or video games designated as "restricted" to persons under the age of 17 without parental consent, including all movies rated "R" by the Motion Picture

With Home Video, *Parents* Are in Control

In addition, as part of the ***Pledge to Parents*** program, mai video stores solicit written instructions from customers describing exactly what types of movies and video games c be rented or purchased by minor-aged family members.

For instance, a customer can limit all of his or her childrer regardless of age, to videos rated "G" by MPAA, or indicate that one child is permitted to rent "PG" movies while anotl can rent "PG- 13."

Association of America (MPAA), and all video games rated "M" by the Entertainment Software Rating Board (ESRB).

2. It is the policy of these VSDA-member video stores not to rent or sell videotapes rated "NC-17" by the Motion Picture Association of America or video games rated "Adults only" by the Entertainment Software Rating Board to persons aged 17 or under.

VSDA has encouraged all of its members to participate in t *Pledge to Parents* program, and strongly supports the poli of checking IDs when appropriate.

Video stores are doing their part to make sure that childre are not exposed to violent movies and video games withou their parents' consent. Of course, the program can only w if parents utilize this opportunity to make their wishes kn to their local video store.

Remember: with home video, *you're* in control. If you hav any questions about the ***Pledge to Parents*** program, cont your local video store operator or e-mail us at VSDA.

A wealth of information about the MPAA's movie rating system is available here:
MPAA INFO

Information about the ESRB and its video game ratings system is available here:
ESRB INFO

The MPAA now offers a searchable database that allows consumers to research ratings for specific movie titles, and the factors that led to those ratings. To access this helpful tool
CLICK HERE

For nearly twenty years, home video has afforded parents the greatest control over their viewing choices, for both themselves and their children. In other words, home video allows you to always

"WATCH WHAT YOU WANT WHEN YOU WANT" SM